UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

STANTON JOLLEY,	:	
Plaintiff	:	
	:	
v.	:	Civil Action No.
	:	3:04 CV 182 (CFD)
JUDGE ROBERT N. CHATIGNY,	:	
Defendant.		

RULING AND ORDER

The plaintiff brings this action pro se and in forma pauperis against Judge Robert N. Chatigny, Chief Judge of the United States District Court of Connecticut. The plaintiff alleges that Judge Chatigny's dismissal of plaintiff's action against Judge Arterton denied him of his due process and equal protection rights. See Jolley v. Arterton, 3:04 CV 19 (RNC) (D. Conn. Jan. 16, 2004). The plaintiff seeks damages in the amount of nine-hundred trillion dollars.

Background

On October 3, 2003, the plaintiff brought an action against the United States. See Jolley v. United States, 3:03 CV 1704 (JBA). Judge Arterton dismissed the case on December 12, 2003. On January 6, 2004, the plaintiff brought an action against Judge Arterton for dismissing plaintiff's case against the United States. See Jolly v. Arterton, 3:04 CV 19 (RNC). On January 16, 2004, Judge Chatigny dismissed the plaintiff's claims against Judge Arterton based on the doctrine of absolute judicial immunity. The plaintiff now brings this action against Judge Chatigny for dismissing plaintiff's case against Judge Arterton.

Discussion

For the reasons that follow, the case is dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) and (iii). The plaintiff has met the requirements of 28 U.S.C. § 1915(a) and has been granted leave to proceed in forma pauperis in this action. When the court grants in forma pauperis status, section 1915 requires the court to conduct an initial screening of the complaint to ensure that the case goes forward only if it meets certain requirements. "[T]he court shall dismiss the case at any time if the court determines that ... the action ... is frivolous or malicious; ... fails to state a claim on which relief may be granted; or ... seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2)(B)(i)-(iii).

The court construes pro se complaints liberally. See Haines v. Kerner, 404 U.S. 519, 520 (1972). Thus, "when an in forma pauperis plaintiff raises a cognizable claim, his complaint may not be dismissed sua sponte for frivolousness under section 1915(e)(2)(B)(i) even if the complaint fails to 'flesh out all the required details." ' Livingston v. Adirondack Beverage Co., 141 F.3d 424, 437 (2d Cir. 1998) (quoting Benitez v. Wolff, 907 F.2d 1293, 1295) (2d Cir. 1990)). The court exercises caution in dismissing a case under section 1915(e) because a claim that the court perceives as likely to be unsuccessful is not necessarily frivolous. See Neitzke v. Williams, 490 U.S. 319, 329 (1989).

The Second Circuit has stated that:

> An action is "frivolous" when either: (1) "the 'factual contentions are clearly baseless,' such as when allegations are the product of delusion or fantasy;" or (2) "the claim is 'based on an indisputably meritless legal theory.'" Nance v. Kelly, 912 F.2d 605, 606 (2d Cir. 1990) (per curiam) (quoting Neitzke v. Williams, 490 U.S. 319, 327, 109 S.Ct. 1827, 1833, 104 L.Ed.2d 338 (1989). A claim is based on an "indisputably meritless legal theory" when either the claim lacks an arguable basis in law, Benitez v. Wolff, 907 F.2d 1293, 1295 (2d Cir. 1990) (per

> curiam), or a dispositive defense clearly exists on the face of the complaint. See Pino v. Ryan, 49 F.3d 51, 53 (2d Cir. 1995).

Livingston v. Adirondack Beverage Co., 141 F.3d 434, 437 (2d Cir. 1998). "A complaint will be dismissed as 'frivolous' when 'it is clear that the defendants are immune from suit.' Montero v. Travis, 171 F.3d 757, 760 (2d Cir. 1999) (quoting Neitzke v. Williams, 490 U.S. 319, 325, 327, 109 S.Ct. 1827, 104 L.Ed.2d 338 (1989)). See also Yen v. Supreme Court of U.S., 205 F.3d 1327, *1 (2d Cir. 2000).

The only defendant in the case is a federal district court judge who is protected from suit for damages by judicial immunity. "[J]udicial immunity is an immunity from suit, not just from ultimate assessment of damages." Mireles v. Waco, 502 U.S. 9, 11 (1991). "The absolute immunity of a judge applies 'however erroneous the act may have been, and however injurious in its consequences it may have proved to the plaintiff.'" Young v. Selsky, 41 F.3d 47, 51 (2d Cir. 1994) (quoting Cleavinger v. Saxner, 474 U.S. 193, 199-200 (1985) (quoting Bradley v. Fisher, 13 Wall. 335, 347 (1872))). Judicial immunity is overcome in only two situations. "First, a judge is not immune from liability for nonjudicial actions, i.e., actions not taken in the judge's judicial capacity. Second, a judge is not immune for actions, though judicial in nature, taken in the complete absence of all jurisdiction." Mireles, 502 U.S. at 11 (citations omitted).

The allegations directed at Judge Chatigny arise out his dismissal of plaintiff's action against Judge Arterton. The plaintiff alleges that Judge Chatigny "obstructed justice and manipulated the processes of civil procedure by bias in making the judgment on the case because misrepresentation and fraud transpired when I (plaintiff) received a ruling from Judge Robert N. Chatigny stating that my case

has been dismiss without the service of process."

The plaintiff has not provided any allegations suggesting that Judge Chatigny was not acting in his judicial capacity or within the bounds of his jurisdiction. "Acts are judicial in nature if they are (1) normal judicial functions (2) that occurred in the judge's court or chambers and were (3) centered around a case pending before a judge." Badillo-Santiago v. Andreu-Garcia, 70 F. Supp. 2d 84, 91 (D.P.R.1999). Even if the action is determined to be erroneous or malicious, the judge is not stripped of immunity. See Stump v. Sparkman, 435 U.S. 349, 356-57 (1978). Because the plaintiff has alleged only actions taken in the defendant's judicial capacity and within the bounds of his jurisdiction, the defendant is protected from this action for damages by absolute judicial immunity.

Conclusion

Accordingly, the complaint is DISMISSED pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) and (iii). It is certified that any appeal in forma pauperis from this order would not be taken in good faith because such an appeal would be frivolous. 28 U.S.C. § 1915(a). In addition, the plaintiff is warned that further filing of complaints or motions based on the allegations in the complaint or asserted in prior litigation may result in the issuance of an order barring the acceptance of any future complaints without first obtaining leave to do so. The clerk is directed to close the case.

SO ORDERED this 12th day of February 2004, at Hartford, Connecticut.

/s/ CFD
CHRISTOPHER F. DRONEY
UNITED STATES DISTRICT JUDGE